

By: Representative Baker (74th)

To: Insurance; Judiciary A

HOUSE BILL NO. 600

1 AN ACT TO AMEND SECTION 83-2-3, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT NO INSURER MAY RAISE THE RATES ON AN AUTOMOBILE
3 INSURANCE POLICY SOLELY BECAUSE ITS INSURED IS IN AN AUTOMOBILE
4 ACCIDENT IF THE INSURED IS ADJUDICATED TO BE NOT AT FAULT IN THE
5 ACCIDENT; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** Section 83-2-3, Mississippi Code of 1972, is
8 amended as follows:

9 83-2-3. (1) Rates shall comply with the following standards:

10 (a) Rates shall not be excessive, inadequate or unfairly
11 discriminatory.

12 (b) A rate is excessive if it is likely to produce a
13 profit that is unreasonably high for the insurance provided or if
14 the expense provision included therein is unreasonably high in
15 relation to the services rendered.

16 (c) A rate is inadequate if it threatens the solvency of
17 the insurance company or tends to create a monopoly.

18 (d) Unfair discrimination exists if, after allowing for
19 practical limitations, price differentials fail to reflect
20 equitably the differences in expected losses and expenses. A rate
21 is not unfairly discriminatory because different premiums result
22 for policyholders with like loss exposures with different
23 expenses, or like expenses but different loss exposures, so long
24 as the rate reflects the differences with reasonable accuracy.

25 (2) In determining whether rates comply with the standards
26 set forth in subsection (1), the following criteria shall apply:

27 (a) Due consideration shall be given to past and
28 prospective loss and expense experience within and outside this

29 state; to catastrophe hazards; to any residual market loss
30 redistributions and other similar obligations; to a reasonable
31 provision for profit and contingencies; to trends within and
32 outside this state; to loadings for leveling premium rates over a
33 reasonable period of time or for dividends or savings to be
34 allowed or returned by insurers to their policyholders, members or
35 subscribers; and to all other relevant factors, including the
36 judgment of the filer.

37 (b) Risks may be classified in any reasonable way for
38 the establishment of rates except that no risks may be grouped by
39 classifications based in whole or in part on race, color, creed,
40 or national origin of the risk. Rates may be modified for
41 individual risks in accordance with rating plans or schedules
42 which provide for recognition of probable variations in hazards,
43 expenses or both.

44 (c) The systems of expense provisions included in rates
45 for use by an insurer or group of insurers may differ from those
46 of other insurers or group of insurers to reflect the operating
47 methods of such insurer or group with respect to any kind of
48 insurance, or with respect to any subdivision or combination
49 thereof.

50 (d) Any homeowners' insurance policy filed with the
51 Commissioner of Insurance that offers a percentage deductible for
52 the peril of windstorm from a named storm shall offer a buy-back
53 provision for that deductible which is actuarially sound; however,
54 the Commissioner of Insurance may grant a waiver from the
55 mandatory buy-back provision in accordance with the following
56 procedure and criteria:

57 (i) An insurance company shall make a formal filing
58 requesting a waiver from the buy-back provision requirement with
59 the Commissioner of Insurance.

60 (ii) An insurance company shall submit written
61 proof in its formal filing as to why it is in the best interest of

62 Mississippi policyholders to receive a waiver from the buy-back
63 provision requirement and shall provide any supporting
64 documentation requested by the commissioner deemed appropriate to
65 make his decision.

66 (iii) All expenses incurred by the Commissioner of
67 Insurance or his designee in determining the validity of the
68 waiver request shall be borne by the petitioning insurer. Such
69 expenses may include, but not be limited to, the cost of reviewing
70 the filing by actuaries, and if the commissioner deems a public
71 hearing appropriate, the cost of a facility, the cost of publicity
72 and the cost of a court reporter for the hearing.

73 (e) For automobile insurance policies, as defined in
74 Section 83-11-1, no insurer may raise the rates of its insured
75 solely because the insured is in an automobile accident if the
76 insured is adjudicated to be not at fault in the accident.

77 **SECTION 2.** This act shall take effect and be in force from
78 and after July 1, 2005.